

REMARKS/ARGUMENTS

The Examiner is specifically thanked for the courtesies extended the Applicant's Representative during the interview on November 27, 2007. During the interview, claims 1-18 and 20 were discussed in regards to Davis et al. (U.S. Patent No. 6,772,601). Generally, the Applicant pointed out that the prior art does not disclose varying the speed of the evaporator and stirring fan. Therefore, the rejection under 35 U.S.C. § 102(e) verses claims 1-6, 10-11, 14-18 and 20 should be withdrawn. Applicant also raised an issue regarding a 37 C.F.R. § 1.131 affidavit proposing that U.S. Patent No. 6,769,265 could be used as evidence that the Applicant had possession of the claimed invention. The Examiner appeared to be willing to consider such an affidavit if it were submitted in this case. The Examiner also indicated that, in regards to the rejection under 35 U.S.C. § 102(e) and the Applicant's arguments, he would have to consider obvious-type issues should the Davis et al. reference not be sufficient solely under 35 U.S.C. § 102(e). Based on the record, although an affidavit under 37 C.F.R. § 1.131 could be presented, Applicant has chosen not to because it is unnecessary for the reasons set forth below.

Claims 1-6, 10-11 and 14-20 have been rejected under 35 U.S.C. § 102(e) as being anticipated by Davis et al. (U.S. Patent No. 6,772,601). According to the Examiner's rejection, although Davis et al. does not explicitly teach varying the speed of the evaporator fan and stirring fan, it is inherent that the CPU will vary the operational speed of these components in accordance with the desired airflow based on the temperature sensors. Applicant respectfully traverses this position. To sustain a rejection under 35 U.S.C. § 102, each and every element of the claim must be explicitly anticipated by a single prior art reference. In this case, varying the speed of the evaporator fan and stirring fan is simply not present in Davis et al. Therefore, Applicant respectfully requests that this rejection be withdrawn.

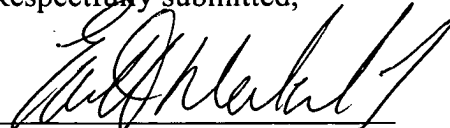
Claims 7-9 and 12-13 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Davis et al. This rejection is respectfully traversed on the grounds that a rejection may not be made under 35 U.S.C. § 103(a) based a reference available under 35 U.S.C. § 102(e) if the reference and the subject application were commonly owned. In this case:

The subject Application Serial No. 10/798,286 and U.S. Patent No. 6,772,601 were, at the time the invention of Application Serial No. 10/798,286 was made, commonly owned by Maytag Corporation. The '601 patent is clearly assigned on its face and the assignment for the present application has already been recorded in the USPTO at Reel 015453, Frame 0512.

In accordance with M.P.E.P. § 706.02(l)(2) and 2146, U.S. Patent No. 6,772,601 does not constitute prior art under 35 U.S.C. § 103 against the claims of the subject application. Therefore, Applicant respectfully requests that this rejection be withdrawn.

In view of the above remarks, Applicant respectfully submits that all claims should now be allowed and the application passed to issue. If the Examiner should have any additional questions or concerns regarding this matter, he is cordially invited to contact the undersigned at the number provided below in order to further prosecution.

Respectfully submitted,



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